



Agency Code # _____

**+GLEANERS COMMUNITY FOOD BANK+
OF SOUTHEASTERN MICHIGAN**

AGENCY AGREEMENT

- Section 1 Introduction
- Section 2 The Agency's Agreements
- Section 3 Liabilities
- Section 4 Actions which Violate the Agreement
- Section 5 Miscellaneous
- Section 6 Procedures and Guidelines
- Section 7 Signatures

This Agency Agreement (this "Agreement" dated) _____ 20_____, is executed by _____ (Agency Name), a Michigan (state organized in)- - - non-profit - - - - - (or other type of entity) (the "Agency"), in favor of Gleaners Community Food Bank of Southeast Michigan, Inc., a Michigan non-profit corporation ("Gleaners"). The Agency's Federal tax identification number (employer identification number) is _____.

**SECTION 1
INTRODUCTION**

a) Mission Gleaners collects and distributes food and other related consumer products received by Gleaners ("Groceries") to member Agencies to be served or distributed to individuals who are needy, ill, or children. The Agency desires to become a member agency of Gleaners, and be permitted to purchase and use Groceries in accordance with the requirements established by Gleaners for its member Agencies, and has submitted a membership application, including all required materials, and has met all other conditions for membership. Gleaners has reviewed the application and has determined that the Agency is eligible to become a member Agency.

b) Membership in Gleaners. Upon Gleaners' acceptance, and starting with the date which Gleaners designates as the "Effective Date", the Agency shall become a member of Gleaners under the following terms.

c) Term/Renewal. The initial term of this Agreement shall be through the end of the first full calendar year following acceptance. Unless one party notifies the other of its desire to terminate, and or not renew this Agreement, it shall, with the agency's remittance of the required fees, be automatically extended for successive Terms of one (1) year each.

d) Membership Fee. The Agency shall pay Gleaners an annual membership fee of \$75. This fee will be billed to the Agency during each January and be paid under the normal payment procedures.

e) Duties which Continue Past Termination. The Agency's duties under Sections 2c (Limits on using Groceries); 3b (Release and Indemnification); and 4a(i) (Violations) shall remain in effect even after this Agreement is terminated.

SECTION 2 THE AGENCY'S AGREEMENTS

a) Facilities. The agency shall maintain its facilities in good repair and in a manner necessary to ensure sanitary food handling and storage.

b) Eligible Clients. The agency promises to serve the needy, ill, or infants (minor children), without discrimination based upon race, color, citizenship, religion, sex, national origin, ancestry, age, marital status, disability, sexual orientation including gender identity, unfavorable discharge from the military, or status as a protected veteran. Whenever there is ambiguity or confusion as to the serviceability of a presenting client, as an absolute minimum, the Agency shall in good faith and with good intention, advise such clients who present themselves to the Agency regarding alternative agencies and resources which the Agency believes could assist such persons. *The Agency shall have and present written guidelines for determining Eligible Clients, and furnish these to anyone who asks to review them.*

c) Limits On Using Groceries: No Resale: Returning Unused Food. **All Groceries received by the Agency from Gleaners shall be used only for the needy, ill, or children, and shall be used only in meals prepared and served to Eligible Clients or distributed directly to Eligible Clients in the form of prepared packages or food baskets.** The Agency will not:

(i) Sell, barter, or offer for sale any Groceries provided by Gleaners, whether in exchange for money, services, or otherwise allow Groceries to re-enter commercial channels;

(ii) Charge or solicit membership dues, fees, or donations for groceries from eligible clients; or

(iii) Require Eligible Clients to perform work services, or become a part of or a witness to, religious teachings or worship services, to obtain Groceries. All are welcome to join a worship service, offer a donation, or volunteer, but they shall receive the same food as those who simply identify themselves and have nothing more to give.

In the event the Agency is not able to use non-perishable Groceries as required under this Agreement, the Agency shall notify Gleaners of this and, at Gleaners' request, either return the unused Groceries to Gleaners, or destroy the unused Groceries, or otherwise deliver or dispose of the Groceries as Gleaners may instruct.

d) Observing Laws; maintaining Licenses and adhering to donor requirements

The Agency shall observe all Federal, state, and local laws, statutes, rules, and all other regulations applicable to it. This includes the IRS eligibility requirements for receipt, transfer, and use of donated food under section 170(e)(3). The Agency shall have and will maintain, all state and local licenses required of food service establishments in its location, according to the services it provides, including without limitation all credentials required by the food bank. This specifically includes but is in no way limited to, maintaining all required food handling certifications. The agency will also at all times exhibit a willingness to adhere to any additional donor stipulations.

e) Maintain Records. The Agency shall maintain accurate, up-to-date records which will allow it to satisfy the informational requirement established by Gleaners. In particular, records shall be maintained regarding Eligible Clients served, Groceries received from Gleaners and other sources, and financial books and records.

f) Inspecting Agency Facilities. **The Agency shall allow Gleaners to inspect its records and facilities at any reasonable time during the Agency's normal operating hours, either after notice or without notice. The Agency shall make its personnel available to Gleaners to respond to questions and to assist Gleaners personnel in reviewing the facilities and shall otherwise cooperate with any inspections.**

g) Notice of Developments. Not more than three days after the Agency becomes aware of any of the following events, the Agency shall notify Gleaners, describing the event and the action which the Agency has taken and proposes to take with respect to the event:

(i) The Agency violates any provision of this Agreement; or

(ii) The Agency no longer maintains its qualification as a tax-exempt organization or it files for bankruptcy or becomes insolvent; or

(iii) Any fire, flood, or other natural or physical disaster that occurs And could materially affect the Agency or its ability to serve its clients; or

(iv) The Agency changes its location, administrative officers, or affiliation with its sponsoring organization, if any; or

(v) Any other event occurs which could materially affect the Agency or its ability uphold its obligations under this agreement or serve its clients.

h) Continued Cooperation. Agencies occasionally are located close to each other or are serving Eligible Clients who are similar to those serviced by another member agency. If requested by Gleaners, the Agency agrees that it will review in good faith and consider any suggestions by Gleaners to cooperate or combine operations or

facilities with a specific designated agency in order to avoid or minimize geographic duplication or increase the efficiency of delivering Groceries to eligible persons.

SECTION 3 **LIABILITIES**

a) **Inspection Obligations. Warranty Disclaimer: The Agency understands and agrees that (i) it is responsible for choosing, inspecting, and storing all Groceries received from Gleaners, and (ii) all Groceries obtained through Gleaners are accepted by the Agency “as is”, without any warranties, express or implied, including without limitation any implied warranties of merchantability or fitness for a particular use.**

b) **Release and Indemnification.** The Agency will select and carefully and completely inspect all Groceries received by it from Gleaners before using the Groceries. The Agency releases Feeding America, Gleaners, and each original donor of Groceries from any liability resulting from the condition of any donated Groceries. The Agency indemnifies, and will defend and hold harmless, Gleaners and each original donor of Groceries, and any parent, subsidiary, or affiliate thereof, and all directors, officers, employees, agents, representatives, consultants, and advisors of each of the foregoing (the “Indemnified Parties”) from and against all demands, claims, actions or causes of action, assessments, losses, damages, liabilities (whether absolute, accrued, contingent or otherwise), costs, and expenses asserted against or incurred by any Indemnified Party directly or indirectly, by reason of or resulting from or relating to any product obtained from Gleaners by the Agency under this Agreement. The Bill Emerson Good Samaritan Food Donation Act of 1996 establishes a uniform national law to protect organizations and individuals while donating food in good faith.

SECTION 4 **ACTIONS WHICH VIOLATE THE AGREEMENT**

- a) **Violations.** For the purposes of this Agreement, a “Violation” means:
- (i) The Agency does not pay any amounts owed by it to Gleaners within thirty(30) days after receiving an invoice or other written notice;
 - (ii) The Agency breaches a material term of this Agreement, including without limitation failing to deliver when due any information required to be reported under this Agreement; or
 - (iii) The Agency commits an unlawful or fraudulent act.
 - (iv) The Agency creates a hostile work environment for Gleaners’ customers, staff, or volunteers or for their own customers, staff, or volunteers.
 - (v) The Agency provides food from Gleaners to those other than the needy, ill, infants, or provides food on a sporadic, less than “ongoing” and or predictable monthly schedule, or provides food primarily to their own religious worshipers, volunteers or

donors, or in a manner other than that suitable to the “general service needs of the larger “multiple-county” South East MI community” as assessed by Gleaners officials.

Effects of Violation. After violation, Gleaners may do the following:

(i) Suspension of membership. Gleaners will notify the Agency of the Violation, and suspend the Agency’s membership in Gleaners for a period of up to six months from the notice (the “Suspension Period”). During the Suspension Period, the Agency shall not be entitled to obtain Groceries from Gleaners or otherwise participate in Gleaners activities, such as Agency workshops, etc.

(ii) Termination of membership. Gleaners will notify the Agency of the violation and terminate its membership, effective as of the date specified in the notice. As of the specified date, the Agency shall not be entitled to obtain Groceries from Gleaners or otherwise participate in Gleaners activities, such as Agency workshops, etc. Any Agency whose membership is terminated under this provision may not become a member Agency of Gleaners for at least one year after the termination, and only after submitting a new membership application and satisfying all requirements then existing for Gleaners membership.

(iii) Additional Remedies. In addition to the remedies provided above, Gleaners may exercise any other rights available to it, whether arising under this Agreement, under applicable law, or otherwise, in any manner it determines is appropriate. In particular, Gleaners may instruct the Agency to return or otherwise dispose of all Groceries received from Gleaners. Gleaners shall take any action available to it, and may exercise or not exercise rights as it determines is appropriate under the circumstances.

SECTION 5 **MISCELLANEOUS**

a) Assignment. The Agency may not assign its rights and duties under this Agreement. By notifying the Agency at least ten (10) days in advance Gleaners may assign its rights and duties under this Agreement to any organization which acquires all or substantially all of Gleaners’ assets and operations, and to a non-profit organization established or sponsored by Gleaners for the purpose of collecting and distributing Groceries to individuals who are needy, ill, or children.

b) Relationship. This agreement does not create or intend to create any agency, partnership, or joint venture relationship between Gleaners and the Agency. At times when the receiving agency is referred to as a “Partner”, it is used only as a colloquial “term-of-endearment” and such a reference in no way denotes a legal arrangement.

c.) Termination of membership without harm. With this agreement an “at will” relationship is formed and either party may, and is allowed to, end the relationship at any time for any reason. A party need not claim that the other has caused harm or committed a material breach of the agreement.

d.) Entire Agreement: Amends: Severability. This agreement is the entire agreement between the parties regarding the Agency’s membership in Gleaners, and replaces all prior agreements and understandings of the parties. This agreement can be amended only in writing executed by the Agency and acknowledged by Gleaners. If a court determines that any portion of this Agreement is unenforceable, the rest of this Agreement will remain valid.

SECTION 6
PROCEDURES & GUIDELINES

a) Placing orders. The Agency can place food orders by telephone, fax, and the Internet. The agency shall notify Gleaners if it is unable to pick up its ordered Groceries on the date selected by the Agency. Gleaners will charge a re-stocking fee of \$25 if the Agency fails to pick up the order. Gleaners reserves the right to limit quantities or ration certain Groceries. The Agency agrees not to order excessive amounts of Groceries.

b) Shared Maintenance. The Agency agrees to help support the operations of Gleaners by paying a fee for donated Groceries that may be as much as \$0.18 per pound. The fees for Groceries through the Co-Agency and Value-Added programs may exceed \$0.18 a pound. Gleaners may also offer food to the Agency without charging a shared maintenance fee.

c) Payment Terms. During the first six months of the Agency's membership, the Agency shall pay for all Groceries ordered when received (that is, COD). After 6 months, the Agency may make a written request to be taken off COD. The Agency can then make payments to Gleaners within 30 days after it receives each invoice. The Agency will be assessed a \$25.00 fee for any checks submitted with insufficient funds. Gleaners reserves the right to require the Agency to pay by money order or through a prepayment plan.

d) Monthly Reports. On or before the 10th day of each month, the Agency shall send to Gleaners a report regarding its activities and the clients served during the previous month. Gleaners may periodically amend the monthly report form and the Agency shall thereafter provide reports in the revised form. Gleaners may also request additional information from the Agency, which the Agency shall provide within the time limits established by Gleaners. Gleaners reserves the right to discontinue the Agency's food ordering privileges if the monthly reports and other requested information is not received within the time limits established by Gleaners.

e) Grievance Procedure. If the Agency has a complaint regarding any action taken or procedure followed by Gleaners or its employees, the Agency shall first try to resolve the issue directly with the Gleaners' Agency Relations Department. Only after being unsuccessful in this effort, the Agency should write to Gleaners' President clearly describing the issue, the Agency's proposed solution, and its attempts to solve the problem. The President shall promptly contact the Agency Relations Committee and each party shall work in good faith to resolve the issue.

f) Food Storage Guidelines. The agency agrees to adhere to the following standards:

(i) Have regular, established days and hours for food service (Example: Monday and Wednesday 10:00 a.m. to 1:00 p.m.). This information should be posted.

(ii) Store food in secure, well lit area.

- (iii) Keep food stored away from clothing and furniture.
- (iv) Store food in clean, dry, rodent and insect free area. Have a pest control plan.
- (v) Store food 6 inches off the floor on pallets or shelves.
- (vi) Store loose packaged food (cornmeal, rice, beans, etc.) in pest resistant containers.
- (vii) Refrigerators should not have a temperature above 40 degrees. Freezers should be maintained between –10 and 0 degrees. Each cold storage unit should have a visible thermometer indicating temperature of the unit. Keep an accurate thermometer to check the temperatures.
- (viii) Rotate all stock. Food should be used on the first-in first-out basis to avoid spoilage.
- (ix) Protect food by storing chemical products (shampoo, bleach, laundry soap, etc.) away from food.
- (x) Have a certified/licensed food handler present on-site at all times when food is being received, prepared or served as required by law.

g) Food Preparation Guidelines for On-Site Feeding Programs. If preparing or serving meals, the Agency agrees to adhere to the following standards:

- (i) Have a certified/licensed food handler present on-site at all times when food is being received, prepared or served as required by law.
- (ii) Maintain an up-to-date food handling license through the city or county Department of Health.
- (iii) Post sanitation, food handling, storage, and temperature charts in food preparation areas.
- (iv) Use a three-step hot water washing system for dishes or cookware or power-heated industrial-type dishwasher.

SECTION 7
SIGNATURES

The Agency has executed this Agreement by its duly authorized officer or agent as of the date first written above on page one.

Printed Agency Name

Printed Agency Representative's Name & Title

By: _____
Agency Representative's Signature

Accepted: Gleaners Community Food Bank

By: _____
Gleaners Community Food Bank Representative's Signature

Dated: _____